

SIGN CODE AMENDMENTS TO ALLOW COMMUNITY SIGN KIOSKS

DIRECTOR'S REPORT AND RECOMMENDATION

INTRODUCTION

The Department of Design, Construction and Land Use (DCLU) is proposing to amend the Land Use Code to allow sign kiosks ('kiosk.'). The purpose of the kiosks is to allow communities the opportunity to communicate information of interest within the community.

The purposes of the Sign Code are to allow signs that promote certain public goals, including promoting local business vitality, and to encourage the use of signs that enhance the visual environment of the city and that do not impair traffic safety.

Within the community where these kiosks are used, both commercial speech and non-commercial speech are likely to be of interest to the community. Therefore, both types of speech would be allowed on kiosks.

Although these kiosks may have some traffic safety impacts, these impacts can be ameliorated by limiting the size of the structures and of the messages on them and by regulating the structures' location and lighting. Any contribution to visual blight created by the kiosks can be ameliorated by regulating the zoning where they may be located, by requiring the structural design to be consistent with guidelines approved by the Design Commission and by regulating the size and location of signs on the kiosk.

Therefore, allowing kiosks is consistent with the Sign Code by promoting a legitimate public purpose of enhancing community communication and by regulating their impacts on traffic safety or on the visual environment.

BACKGROUND

In 1994, the Seattle City Council passed an ordinance which prohibited the posting of handbills, signs or posters on any City-owned structure, including utility poles. The ordinance, commonly known as "the poster ban," was passed in response to concerns for the safety of the utility workers who maintained the poles, as well as concern about the inordinate amount of litter caused by overposting on the poles. Communities and neighborhoods lobbied the City for public kiosks and bulletin boards as a means to increase communication among community members, as well as with the public at large. In 1998, the Community Kiosks Task Force was formed to advise the Seattle City Council and the Mayor on policy and funding options for providing public kiosks in Seattle.

The Community Kiosk Task Force considered the facts that 28 out of 37 neighborhood plans specified an interest in providing kiosks in their neighborhoods, and that many communities have made requests for siting kiosks.

Based on these and other considerations, the Community Kiosk Task Force recommended to the Council and Mayor that kiosks be allowed. The Council, in Resolution #30095, directed DCLU and other departments to amend the Sign Code so that kiosks could be provided and to create a kiosks program.

ANALYSIS

The proposed Land Use Code amendment addresses kiosks. The ordinance makes the following changes to the Code, each of which will be addressed in this analysis.

- Adding a new purpose for sign regulation, that is, to provide opportunities for communicating information of community interest
- Identifying signs on kiosks as an exception to the general ban on new off-premise advertising signs
- Permitting sign kiosks in all zones except for residential zones
- Identifying SeaTran as the department responsible for issuing sign permits for kiosks in the public right of way, in addition to its responsibility to issue street use permits for them
- Establishing development standards for sign kiosks
- Establishing standards for posting signs on sign kiosks
- Adding definitions of ‘sign kiosk’ and ‘public sign’ to the Code
- Addressing existing kiosks that do not have sign permits
- Clarifying appeal provisions for denial of sign permits affecting noncommercial speech

In addition, the ordinance requires a report to the Council on the effects of the amendment after one year.

Adding a new purpose to the sign code: to allow communication of information that is of interest to local communities.

The kiosks are envisioned to provide information of interest to the community, including the same information that was previously seen on telephone poles, such as public meetings, lost pets, yard sales, rock concerts, and local charity functions. Kiosks may also be used to provide information about goods and services provided by businesses. The Community Kiosk Task Force considered testimony provided by neighborhood residents and businesses, and determined that this type of information would be of interest to the community where the kiosk is located.

This is a new purpose for sign regulation in the City of Seattle. Revising the regulations to allow this purpose is consistent with the current purposes of the Sign Code, by regulating the size, number, location and design of kiosks and the signs posted on them.

Signs on kiosks are an exception to the general ban on signs.

The City bans all signs because they can contribute to traffic hazards and visual blight. The City makes some exceptions to advance other purposes, such as allowing on-premise business signs to promote local business vitality. The City also allows noncommercial speech on all signs.

The Sign Code does not make an exception for new off-premises signs, because the City's interest in promoting traffic safety and the visual environment of neighborhoods and the City is more important. Some of the signs that were typically posted on telephone poles before the poster ban ordinance was adopted were noncommercial speech, and some would be classified as off-premise signs, because they offer a good or service that is not available on the premises where the sign is located (the telephone pole). Therefore, in order to allow these new off-premise signs on kiosks, the Code amendment creates an exception to the general ban on new off-premises signs. The basis for this new exception to the general ban on advertising signs is the importance of providing an accessible forum for communicating information of interest to the community.

Because any type of sign may contribute to traffic hazards and/or to visual blight, the amendment regulates kiosks and the signs on them to ameliorate these impacts.

(a) Traffic safety findings

Kiosks will be located so that they are not likely to contribute to traffic safety risks. This determination is based on Seattle Transportation regulations and on advice from DCLU's driver distraction expert.

Seattle Transportation is responsible for maintaining streets and sidewalks. SeaTran's regulations for allowing activities in the public right of way are contained in Title 15 of the City's adopted ordinances. The proposed ordinance amends Title 15 and Title 23 of the Land Use Code to identify the conditions under which a street use permit can be granted for a kiosk. These conditions include structural standards and location criteria, including compatibility with traffic control signs and other right-of-way uses, consideration of parking and pedestrian safety, and non-interference with access to adjacent property and with the line of sight at intersections. These regulations and a new SeaTran Director's Rule to regulate the location of kiosks will apply to all kiosks on both public and private property.

DCLU contracted with a driver distraction expert, Gerald Wachtel/Veridian Group, to report on the potential traffic distractions posed by the kiosks. Mr. Wachtel reported that the kiosks and signs on them, as regulated would not pose additional hazards as compared to other signs. This opinion considered the SeaTran locational provisions, the kiosk size and lighting/glare provisions, the dispersion of the kiosks, and the regulation of the signs posted.

Based on the standards in the ordinance, the locational criteria developed by Seattle Transportation, and the review by Gerald Wachtel, this report concludes that the kiosks will be generally structurally safe and the regulations will ameliorate any impact on traffic safety.

(b) Aesthetic findings

Signs are generally considered to contribute to the degradation of visual aspects of the planned environment. However, the contribution to visual degradation is mitigated under the regulations set out

in the ordinance, particularly the design regulations and the zoning and dispersion regulations (discussed in the next section).

A prototype of the kiosks was developed. The City's Design Commission reviewed the prototype and made several recommendations for revision of the kiosk prototype. Based on this, Design Commission staff and Council staff worked together to develop design guidelines (attached) for kiosks. Modified plans for the kiosks were presented to the Design Commission and were approved. Any application for kiosks will be required to either meet these guidelines or receive a recommendation from the Design Commission with respect to an alternative design.

Kiosks proposed to be located in special review districts (such as in Pioneer Square or the International District review districts) must be approved by the board for that district. This is consistent with DCLU's practice for any structure proposed to be built within a district. This review will promote consistency with the special character of that district.

Kiosks will be permitted in all zones except for residential zones

In general, the Land Use Code considers off-premises signs to be inconsistent with all zones and considers on-premises signs to be consistent with the character of those zones that allow commercial development, including commercial, downtown and industrial zone. Residential zones do not allow commercial development and therefore do not generally allow on-premises signs. Consistent with the policy for on-premises signs, the ordinance allows kiosks to be located in all commercial, downtown and industrial zones. This report does not recommend allowing kiosks in residential zones or within 50 feet of any residential lot, preserving the distinction between commercial and residential zones. The only exception is where the kiosk is adjacent to a park in a residential area. In that situation the park is a gathering place for people, and the regulations require that the design and location of the kiosk be compatible with the park. This balances the purpose of promoting community communication with the residential zoning.

With more experience with a kiosk program, it is possible that the code could be broadened to allow kiosks in residential zones. Therefore, as part of implementation of the ordinance, an interdepartmental team of representatives from DCLU, DON, Parks, Office of Education and SeaTran will monitor the demand for and use of kiosks for one year following adoption of the ordinance. (The interdepartmental team will report to Council about the possibility of expanding kiosks in residential zones based on documented information from communities requesting kiosks in residential areas.)

Public school grounds, community centers, and one acre parks or playgrounds are generally located in residential zones. Under the current code, off-premises signs are not allowed within 500 feet of any park, playground, community center or within 50 feet of public school grounds. The purpose of this restriction is to minimize impacts on the character of the park, playground or community center.

The Seattle Parks and Recreation Department oversees parks, playgrounds and community centers within the City. That department concurs with the recommendation in this report that Council allow kiosks adjacent to parks, playgrounds and community centers, in order to provide the community with

desirable and effective locations for kiosks, conditional on the Seattle Parks and Recreation Department's review of the kiosk for compatibility with existing signs and the design of the playground, park or community center. Review by the Seattle Parks and Recreation Department of the proposed kiosk will also help mitigate any impact the kiosks may have on the visual environment.

At this time, the Seattle School District does not wish to pursue allowing kiosks to be located near schools. Therefore, the current prohibition of commercial signs within 50 feet of public school grounds is maintained in the ordinance. The possibility of expanding the program to allow kiosks near schools will also be reported on to Council within one year.

Identifying SeaTran as the department responsible for reviewing an application for a sign permit as part of a street use permit, which is necessary for kiosks in the public right of way

SeaTran oversees use of the public right-of-way and grants street use permits for objects that are placed within the right of way, including signs. Many kiosks will be located in the public right-of-way, and the amendment identifies SeaTran as the appropriate department to consider an application for a sign permit as well as a street use permit for a kiosk in the right-of-way. SeaTran will issue both a right-of-way permit and a sign permit.

Other kiosks may be located outside the public right-of-way. DCLU will be responsible for issuing a sign permit for these kiosks, subject to the relevant safety standards set out in the ordinance and the SeaTran Director's Rule. DCLU and SeaTran will provide technical assistance to each other to review permit applications with respect to right-of-way standards, structural safety standards, and sign permit standards.

Establishing development standards for sign kiosks

Development standards for signs help mitigate any impact that the signs may have on traffic safety and the visual environment.

(a) Size

Kiosks are limited to a maximum height, width, depth and surface area. Restricting kiosks by size mitigates their impact on traffic safety. These maximum dimensions were considered by DCLU's driver distraction expert as a basis for his advice that the kiosks will not unduly increase traffic hazards.

Size limitations also provide appropriate clearance around the kiosks for pedestrians and other users of the sidewalk.

These size limitations were considered by the Design Commission in its evaluation of the prototype kiosks. Larger kiosks could be considered out of scale with the surrounding urban context of buildings and street furniture.

(b) Design

The design of the kiosks mitigates their impact on traffic safety and the visual environment. The Design Commission approved a set of guidelines for kiosks. These guidelines are intended to foster kiosks that are of human scale and that can serve as attractive street furniture compatible with the various environments in which the kiosks may be located.

Applicants for a kiosk permit are required to design their kiosk to comply with the Design Commission's guidelines or, alternatively, apply to the Design Commission for a recommendation of approval of a different design.

Wherever the kiosk is located in a special review district or adjacent to a park, playground or community center, the appropriate special review district or the Seattle Parks Department will review the kiosk design for compatibility with the special land use character of review districts and parks, playgrounds and community centers.

Certain aspects of the design of the kiosks are important for traffic safety. Many kiosks will be in the right of way or near the right of way and visible to drivers. The kiosks are prohibited from having certain lights facing the traffic, and flashing signs and chasing signs are prohibited.

Similarly, materials used in constructing kiosks shall minimize glare from natural or artificial illumination. The purpose of this restriction is also to promote traffic safety.

Signs are currently prohibited from mimicking traffic control devices, such as stop signs, for traffic safety. The design of a kiosk structure (and the signs posted on the kiosk) must also meet this requirement.

(c) Location

This ordinance amends Title 15, governing standards for objects in the right of way so that the requirements in the Sign Code will be applicable as well. SeaTran will enforce these standards with respect to kiosks. Special review district boards and the Seattle Parks and Recreation Department will review locations of kiosks in special review districts and near parks, playgrounds and community centers for safety and visual conflicts with other signs.

Certain public highways are designated scenic routes by the State of Washington or the City, and off-premises signs and certain business signs are not allowed on these routes because they detract from their scenic character. The ordinance states that kiosks must comply with the locational restrictions of the existing code.

Some kiosks may be located outside the public right of way and on private property. Since the purpose for making an exception to allow kiosks is to provide an opportunity for community communication, a kiosk placed on private property must be accessible for posting and reading by the public at all times.

(d) Dispersion

The current code sets dispersion standards for off-premise signs in order to minimize visual blight and distraction. Proposed kiosks must meet these same standards for the same purpose.

Establishing standards for posting signs on sign kiosks

Posting standards for signs on kiosks will help mitigate their impact on traffic safety, minimize the possibility of visual blight, and optimize opportunities for the local community to post signs on kiosks, thus fulfilling the purpose of the sign kiosk amendment.

Signs on kiosks shall not exceed 8.5 inches by 14 inches. At this maximum size, the signs are not likely to be a distraction to drivers. No more than one sign per person may be posted on each kiosk. This provides opportunities for expression by all members of the public. In addition, signs cannot be placed on the kiosk to form the appearance of a larger sign, which could be more distracting to drivers.

Each sign must include the date it was posted, and the sign shall be removed within 15 days of posting or the day after the event announced, whichever is first. This promotes posting timely messages of interest to the community, discourages placement of permanent advertising on the kiosk, and allows many speakers to participate.

Commercial signs and noncommercial signs can be posted on a kiosk. Kiosk permit owners are required to designate up to one-quarter of the total posting area for non-commercial speech, and may designate up to one-third of the posting area for posting only non-commercial signs. This provides an opportunity for a percentage of the signs posted on the kiosk to be non-commercial messages, which have been identified as needing more community visibility. The ordinance also makes it unlawful to sell posting space on a kiosk, thereby converting it to a marketable commodity.

Adding definitions of ‘sign kiosk’ and ‘public sign’ to the Code

Sign kiosk is defined in the definition section of the Land Use Code to mean ‘ a small freestanding sign structure visible to the public used for posting small signs.’ This definition conveys the Council’s intent that these new types of off-premise advertising will be limited to small structures and small signs, clearly distinguishing sign kiosks from larger commercial billboards.

The ordinance also adds a definition of ‘public sign.’ Review of signs under the State Environmental Policy Act is normally required for off-premises signs. However, public signs are exempt from SEPA review. This definition clarifies that signs that are located within the public right-of-way, are at least partially publicly funded, and intended to carry messages of interest to the public are exempt from SEPA review. SEPA review has been carried out for the amendment to which this Director’s Report pertains. A kiosk that does not meet all of these criteria will require SEPA review.

Clarifying appeal provisions for denial of sign permits

The ordinance makes a technical change providing a quick means of appeal in those cases where a non-commercial sign permit has been denied or enforced against. In those cases, the ordinance provides that the Seattle Municipal Court will promptly review an appeal of the denied permit, thus protecting the appellant's constitutional rights.

Existing kiosks without sign permits

Some kiosks already exist, and the Executive recommends that these existing kiosks be allowed to continue, because they have been reviewed with respect to design and location and are currently providing an opportunity for communities to communicate, thus fulfilling the purposes of the ordinance. Many of the kiosks were constructed with DON funds, in a process that demonstrated community support for the project. This community support and the use of the kiosks strongly suggests that the community wanted to provide more opportunities for communication through kiosks (which is consistent with the City's purpose for allowing them) and that these kiosks are compatible with the visual environment of that community. Almost all of the kiosks are within the public right-of-way and either received a SeaTran permit or a DCLU land use and building permit as part of a property improvement. Authorization through these permits demonstrates that the kiosks do not unduly contribute to traffic safety risks or pose structural safety risks, as those concerns are part of SeaTran and DCLU's regular review. Several existing kiosks are Seattle Arts Commission artworks that include spaces for posting. The Arts Commission's review suggests that these kiosks are well-designed and received appropriate review with respect to visual impact. In addition, the Design Commission has reviewed the existing kiosks and found them generally in compliance with the design principles. Therefore, the Executive recommends that any noncompliance with the standards set out in this ordinance be waived because these kiosks are providing the opportunity for community communication. If any of the kiosks are relocated, all of the provisions of this ordinance and the SeaTran Director's Rule will apply.

SUMMARY OF RECOMMENDATIONS

The effect of these proposed amendments is to allow sign kiosks that are consistent with the purpose of providing communities with opportunities to communicate information of interest to that community. The ordinance includes safeguards that mitigate the City's concerns about signs contributing to traffic safety and visual blight. The Executive will report to Council after a year on a potential expansion of the kiosk program to include residential zones.